



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 13, 1995

Mr. Edward Serna
Oversight Operations Director
Department of Information Resources
P.O. Box 13564
Austin, Texas 78711-3564

OR95-1212

Dear Mr. Serna:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552. We assigned your request ID# 25371.

The Department of Information Services ("DIR") received an open records request for certain information pertaining to other state agencies for which DIR provides services. Your request does not require us to determine whether the records which have been requested are subject to disclosure, but rather whether you are the officer for public records within the meaning of the applicable provisions of the act with respect to the requested records. You advise that DIR has received a written request for

[t]he names, job titles, departments, work units, home addresses, and home phone numbers for all employees of the 88 agencies for which the Department of Information Resources processes employee payrolls.

You assert that DIR is not the proper party to which such a request should be made, nor is DIR in the position to assert exceptions to disclosure concerning the requested information. Your letter explains that

[i]n the normal course of business, this agency has physical custody of information belonging to numerous other state agencies pursuant to interagency contracts for providing services involving that information. DIR provides payroll services for a number of state agencies, and consequently has physical custody of certain information belonging to those agencies that pertains to payroll

services. The interagency contracts under which the services are performed expressly provide that DIR has no authority to release such information, and that the Receiving Agency (the agency for which DIR provides payroll services) is the custodian of the records that are the subject of the contract.

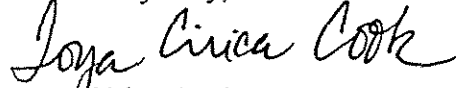
While you have not submitted representative samples of the requested information for our review, you have submitted such a sample of an interagency contract.

In Open Records Decision No. 617 (1993), this office considered the open records procedures applicable to state agency records stored in the Records Management Division records center of the Texas State Library. It was concluded that although the library is not beyond the reach of the Open Records Act, the director or the librarian is not the officer for public records with respect to the records of a state agency held in the RMD as part of that agency's statutorily mandated records management program. It was further stated that open records requests are properly made to the originating agency, rather than to the state library. Open Records Decision No. 617 (1993) at 3-4.

We believe that the conclusion reached in Open Records Decision No. 617 (1993) is applicable here. Moreover, in this particular instance the provisions of the representative interagency contract establish that DIR is not the custodian of records for purposes of the act. Thus, it is clear that the records of various state agencies are placed in the temporary possession of DIR pursuant to interagency contracts. However, DIR is not the officer of public records with respect to the requested information and thus is not authorized to release such information to third parties or to assert possible exceptions to the public disclosure of such information. Accordingly, such requests must be made to the originating agencies pursuant to the provisions of the act. *See* Open Records Decision No. 617 (1993) at 3.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Toya Cirica Cook
Assistant Attorney General
Open Records Division

TCC/SG/ch

Ref.: ID# 25371

cc: Mr. Travis Donoho
Texas State Employees Union
2700 South First Street
Austin, Texas 78704-5454